

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION**

**MICHAEL TERRANCE WARD,**

**Plaintiff,**

**VS.**

**SCOTT BERRY, *et al.*,**

**Defendants.**

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**NO. 3:10-CV-78 (CAR)**

**Proceedings Under 42 U.S.C. §1983  
Before the U.S. Magistrate Judge**

**RECOMMENDATION**

Before the Court is a Motion to Dismiss filed by Defendants Scott Berry, Waymon Fields, and Marie Mitchell. Doc. 25. For the following reasons, it is **RECOMMENDED** that the Motion to Dismiss be **GRANTED**.

On November 3, 2010, the Court entered an order and recommendation allowing Plaintiff to proceed in forma pauperis. Doc. 5. There, Plaintiff was advised, among other things, that he must diligently prosecute his action or face the possibility that it would be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Id.

On May 6, 2010, Defendant filed the instant Motion to Dismiss. Doc. 25. In this motion, Defendants explained that discovery responses sent to Plaintiff at his address of record were returned to them with a notice that Plaintiff had been paroled. Defendants attached a copy of this envelope and notice to their motion.

Following receipt of Defendants' motion, the Court entered an order directing Plaintiff to file a response. Doc. 27. In addition, given the nature of Defendants' allegations, the Court also entered an order directing Plaintiff to show cause for his failure to update his mailing address. Doc. 29. Both orders were returned to the Court in an envelope indicating that Plaintiff had been paroled. Doc. 30.

Diligent prosecution of a case includes keeping the court advised of a current valid mailing address. In light of Plaintiff's failure to do so, **IT IS RECOMMENDED** that Defendants' unopposed Motion to Dismiss be **GRANTED** and that the instant action be **DISMISSED** with prejudice.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this recommendation with the district judge to whom this case is assigned, WITHIN FOURTEEN (14) DAYS after being served with a copy thereof. The Clerk is directed to serve the plaintiff at the **LAST ADDRESS** provided by him.

**SO ORDERED**, this 19th day of May, 2011.

s/ Charles H. Weigle  
Charles H. Weigle  
United States Magistrate Judge